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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,798	09/29/2003	Armin Meisl		9888

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CANADA

EXAMINER

PEZZLO, JOHN

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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08/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/671,798

Applicant(s)

MEISL ET AL.

Examiner

John Pezzlo

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/29/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

Claim 10 is objected to because of the following informalities: Line 3, the use of the word "it" needs be replaced with an explicit term. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5 and 8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

1. Regarding claim 5 - In the preamble the phrase "a computer program product" needs to be changed to "a computer program stored on a computer readable media when executed by a computer".
2. Regarding claim 8 – Line 3, "computer program product" needs to be changed to "computer program executing the computer program".

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 7, 8, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1. Regarding claim 1 – Claim 1 is a hybrid claim, both a method and a system. The claim needs to be split into either a system or method claim but not both.
2. Regarding claim 7 – Line 4, "other such telecommunications network elements" renders the claim indefinite.
3. Regarding claim 8 – Line 2, "like acknowledgements" renders the claim indefinite.
4. Regarding claim 9 – Line 2, "like logical instructions" renders the claim indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kupsh et al. (US 7,003,307 B1) hereinafter Kupsh.

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1. Regarding claim 1 – Kupsh discloses an open architecture method and middleware platform system for implementing a Universal Messaging Gateway (UMG), refer to Figure 2 and column 2 line 59 to column 3 line 35 and column 3 line 58 to column 5 line 6.
2. Regarding claim 2 – Kupsh discloses delivering network originated telecommunications messaging traffic to a large number of related receiving telecommunications network equipment which may otherwise be disparate in design, and even function, refer to Figure 2 and column 2 line 59 to column 3 line 35 and column 3 line 58 to column 5 line 6.
3. Regarding claim 3 – Kupsh discloses system relates to both domestic and foreign network originated telecommunications messaging traffic, refer to Figure 2 and column 2 line 59 to column 3 line 35 and column 3 line 58 to column 5 line 6.
4. Regarding claim 4 – Kupsh discloses telecommunications messaging traffic includes Multi-Media traffic, interactive and/or synchronous mobile text, and related telecommunications messaging or information services, refer to Figure 2 and column 2 line 59 to column 3 line 35 and column 3 line 58 to column 5 line 6.
5. Regarding claim 5 – Kupsh discloses a computer readable memory medium and a computer program, refer to Figure 2 and column 2 line 59 to column 3 line 35 and column 3 line 58 to column 5 line 6.

6. Regarding claim 6 – Kupsk discloses a common interface for the transmission of telecommunications messaging and/or informational traffic, refer to Figure 2 and column 2 line 59 to column 3 line 35 and column 3 line 58 to column 5 line 6.

7. Regarding claim 7 – Kupsh discloses said common interface includes articulated elements ('receiver managers') which interact with external short message entities (ESMEs), Short Message Service Centers (SMSCs) and other such telecommunication network elements, refer to Figure 2 and column 2 line 59 to column 3 line 35 and column 3 line 58 to column 5 line 6.

8. Regarding claim 8 – Kupsh discloses said interaction and mediation is achieved through logical commands, instructions, manipulations, responses and like acknowledgements with the computer program product and the relevant telecommunications network element, refer to Figure 2 and column 2 line 59 to column 3 line 35 and column 3 line 58 to column 5 line 6.

9. Regarding claim 9 – Kupsh discloses connection management functionality and the throttling of incoming protocols and like logical instructions to prevent excessive utilization of network elements by external entities, refer to Figure 2 and column 2 line 59 to column 3 line 35 and column 3 line 58 to column 5 line 6.

10. Regarding claim 10 – Kupsh discloses a security and network management algorithm which blocks incoming traffic based upon the service centre from which it was relayed or

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originated, refer to Figure 2 and column 2 line 59 to column 3 line 35 and column 3 line 58 to column 5 line 6.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Wood et al. (US 2004/0259531 A1) discloses a message transmission system and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Pezzlo whose telephone number is (571) 272-3090. The examiner can normally be reached on Monday to Friday from 8:30 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel, can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C.

or faxed to:

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(571) 273-8300

For informal or draft communications, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Jefferson Building


2A15

500 Dulany Street

Alexandria, VA, 22313.

John Pezzlo

20 July 2007



JOHN PEZZLO
PRIMARY EXAMINER